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TRA DOCKET ROOM
October 27, 2004

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VIA HAND DELIVERY

Hon. Pat Miller, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Petition for Exemption of Certain Services*
Docket No. 03-00391

Dear Chairman Miller:

Enclosed are the original and fourteen copies of BellSouth's *Response to Motion to Compel Discovery and File Supplemental Testimony*. Copies of the enclosed are being provided to counsel of record.

Cordially,



Joelle Phillips

JJP:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Petition for Exemption of Certain Services*

Docket No. 03-00391

**BELLSOUTH RESPONSE TO MOTION TO COMPEL DISCOVERY
AND FILE SUPPLEMENTAL TESTIMONY**

BellSouth files this *Response* to the Consumer Advocate Division's *Motion to Compel Discovery and File Supplemental Testimony* and respectfully shows the Authority as follows.

BellSouth has no objection to the filing of the *Supplemental Testimony of Terry Buckner*. However, the Consumer Advocate is mistaken in its claim that the information contained in the attachments to the rebuttal testimony of Kathy Blake was not provided during the discovery phase of this docket. These exhibits were not provided during discovery because they did not exist at that time. They were created to correct erroneous information in Mr. Buckner's testimony and were compiled using the same information that BellSouth provided to the Consumer Advocate on September 13, 2004 in response to the Consumer Advocate's discovery. Specifically, the cost information addressed by Mr. Buckner's *Supplemental Testimony* was provided in BellSouth's Response to CAD's Second Discovery Request, Request for Production Item 3, Attachment 6, TRA Tariff 2002-461

BellSouth has no objection to the filing of the additional testimony by Mr Buckner, which corrects his earlier mistaken testimony. The additional testimony

clarifies that BellSouth and the CAD agree that BellSouth has not engaged in below-cost pricing in its CSAs for PRI. Mr. Buckner's mistake, however, was not due to any failure by BellSouth to **provide** discovery. Instead, it was the result of the CAD's failure to **review and read** the discovery provided.

BellSouth's testimony did not contain information withheld in discovery. Consequently, the CAD's motion to compel is without merit, nothing in the case has changed, and there is no need for a change to the procedural schedule in this case.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2004, a copy of the foregoing document was served on the parties of record, via the method indicated:

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